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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/784,292	02/15/2001	Amy L. Fletcher	KCC-15,171	2228

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Melanie I. Rauch
Pauley Petersen Kinne & Fejer
Suite 365
2800 West Higgins Road
Hoffman Estates, IL 60195

EXAMINER	
REICHLE, KARIN M	
ART UNIT	PAPER NUMBER
3761	

DATE MAILED: 06/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/784292	Fletcher et al
Examiner	**Group Art Unit**
Reuben	3761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

☒ Responsive to communication(s) filed on 2-15-01.

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1-46 is/are pending in the application.

Of the above claim(s)_____ is/are withdrawn from consideration.

☐ Claim(s)_____ is/are allowed.

☒ Claim(s) 1-40 is/are rejected.

☐ Claim(s)_____ is/are objected to.

☐ Claim(s)_____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The proposed drawing correction, filed on_____ is ☐ approved ☐ disapproved.

☒ The drawing(s) filed on 2-15-01 is/are objected to by the Examiner.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 11 9(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number)_____.

☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received:_____.

Attachment(s)

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3&6

☐ Interview Summary, PTO-413

☒ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other_____

Office Action Summary

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

For Example:

The prior art cited in the specification has been considered but will not appear on the front of a patent, if any, unless cited on a PTO-892 or -1449 accompanying this action, since such citations do not comply with 37 CFR 1.56, 1.97 and 1.98.

The use of the trademark LYCRA(R) (page 18). ECOFLEX (R) (page 21), AHCOVEL (R), GLUCOPON (R)(page 22), GOHSENOL (R) (page 23), REXTAC (R) has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Either a trademark in all capital letter or with the symbol should be set forth.

The drawings are objected to because In Figures 1 and 8 the lines from 53 and 58 should be dashed to denote underlying structure. Correction is required.

The disclosure is objected to because of the following informalities: 1) The Summary of the Invention section, i.e. a description of the claimed invention, and the invention of the claims should be consistent in scope, see MPEP 608,01(d) and 1302.01. 2) In Figure 2, what is 66?

Appropriate correction is required.

Nine of sheets of formal drawings filed August 31, 2001 have been placed in the filed but review is held in abeyance until all the drawings objections are overcome.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-4, 6-12, 14-19, 21, 23, 25, 27, 29, 34-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Datta et al '968.

See Figures 1-7, column 3, lines 6-12, column 6, lines 21-32, column 7, line 13-16, column 8, lines 60-61, column 9, lines 26-33, column 9, lines 37-65, column 12, lines 26-30, and 39-61, column 16, lines 58-62. It is noted that the side panels comprise a "durable material", see cited portions, but even durable material is "disposable" after one or many uses.

Claims 13, 31-33, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Datta et al '968 in view of Yeo and Wallach.

Applicants claim flushability of at least one of or all of the cover, liner and absorbent of the chassis. Datta et al teaches a disposable undergarment 20 including a cover, liner and absorbent but not flushability thereof. See column 1, lines 16-23, 29-40, column 5, lines 27-29 and 49-52 and column 22, Example 17, column 23, Example 20 of Yeo and column 1, lines 13-17, 39-43, column 2, lines 4-6, column 4, lines 21-25 of Wallach. To employ flushability of at least one, if not all, the components of the Datta et al diaper as taught by Yeo and Wallach would be obvious to one of ordinary skill in the art in view of the recognition that such would provide more economic but environmental disposability and the desirability of disposability by Datta et al.

Claims 1-3, 6-11, 14-21, 23, 25, 27, 29, 34-37 rejected under 35 U.S.C. 102(b) as being anticipated by Datta et al '702.

See Figures 1 -2, column 4, lines 60 et seq, column 5, lines 43-46, column 7, lines 2-3, 34-59, column 8, lines 3-15, column 9, lines 3-5, column 13, lines 9-11, 19-50.

Claims 1, 5, 21, 30, 34, 38 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuen '162.

Claims 1, 21, 30, and 34: see Figures, column 3, lines 23-26, 33-38, column 4, lines 19-22, column 5, lines 26-40. Claim 39: column 6, lines 38-57, Claims 5 and 38: See column 11, lines 35-36, i.e. cotton is inherently absorbent and thereby inherently would function as a wipe, and thus includes wipe material.

It is noted that Kuen has been applied against only those claims not previously rejected and the claims from which they depend, i.e. if the rejection on Datta et al were overcome, Kuen might still be applicable against the claims rejected by Datta et al. now.

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Keuhn Jr. et al.

See Figure 1.

Claims 22, 24, 26, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Datta et al '968 or '702 in view of Ygge et al .

Applicant claims the fastening material of the chassis on the inner surface thereof and the mating fastening material of the panel on the outer surface thereof which is the opposite of Datta et al. See however, Figures 1-7 of Ygge. To make the outside chassis fastener on the inside and inside panel fastener on the outside of Datta et al instead would be obvious in view of the interchangeability as taught by Ygge et al.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kuen, Kuen et al, and LaFortune et al patents also teach features of the claims..

The Examiner's regular work schedule is Monday- Thursday.

Any inquiry concerning this communication should be directed to K. Reichle at telephone number (703) 308-2617.

K. M. Reichle
Karin M. Reichle
Patent Examiner

K. Reichle:bhw

May 8, 2002